

2018 ADVANCED DUI

September 10 - 13, 2018
Phoenix, Arizona



DUI HOT TOPICS

Presented by:

Adam Garvin
Deputy Pinal County Attorney

Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
1951 West Camelback Road, Suite 202
Phoenix, Arizona 85015

ELIZABETH ORTIZ
EXECUTIVE DIRECTOR

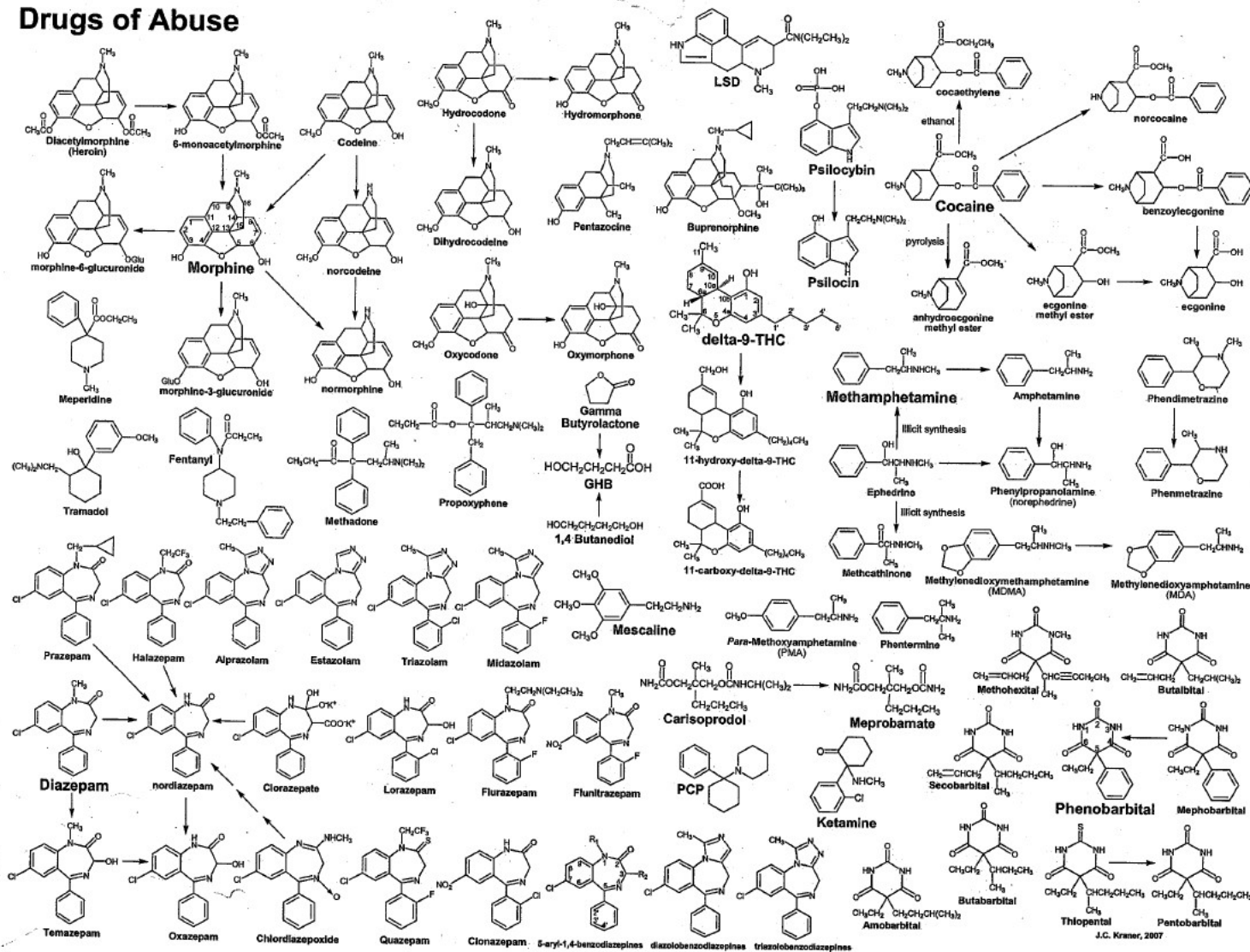
DUI LUKEWARM TOPICS

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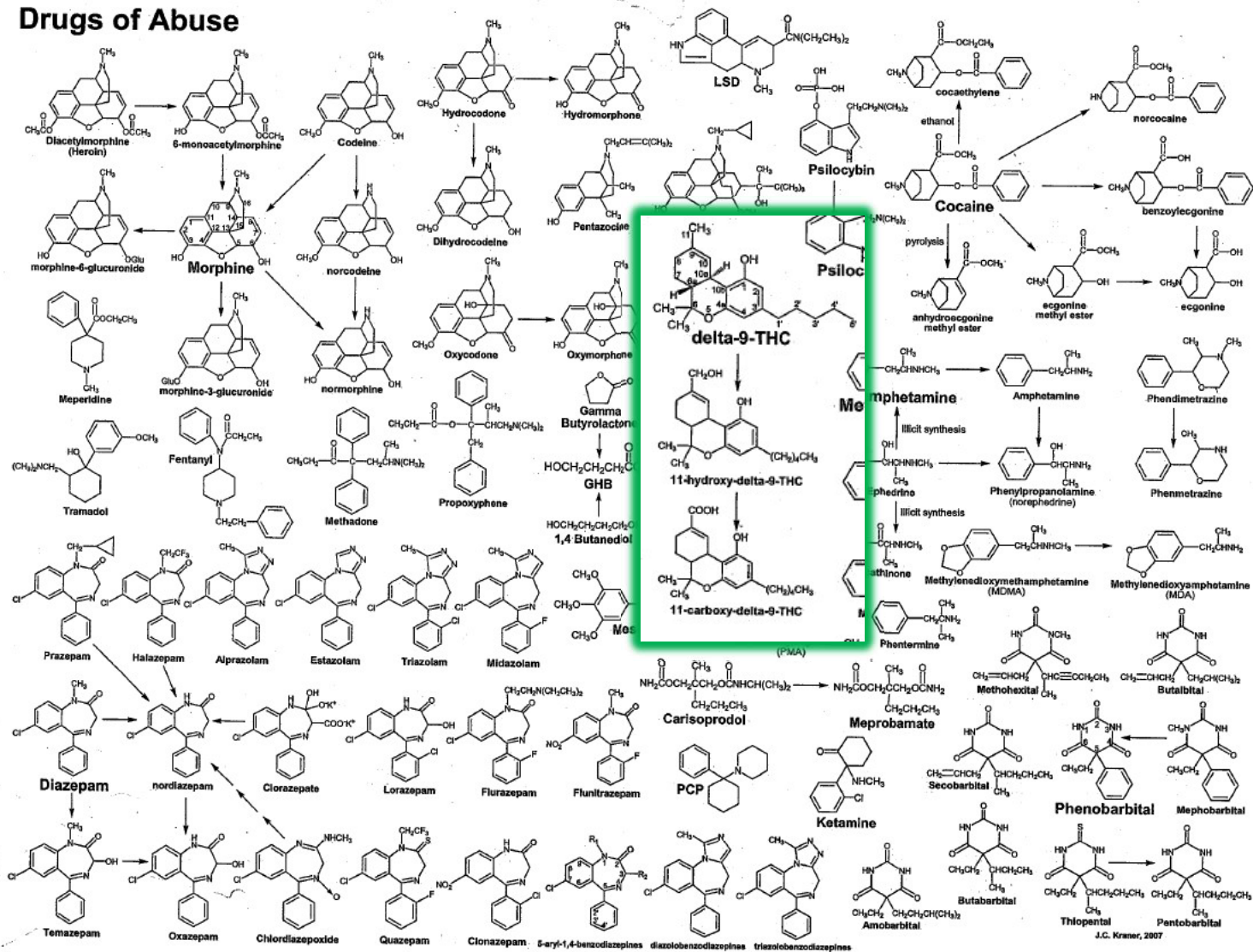
METABOLITES

The background of the slide is a blue gradient, transitioning from a lighter blue at the top to a darker blue at the bottom. On the right side, there are several thin, white, parallel diagonal lines that extend from the bottom towards the top right corner, creating a sense of motion or a stylized graphic element.

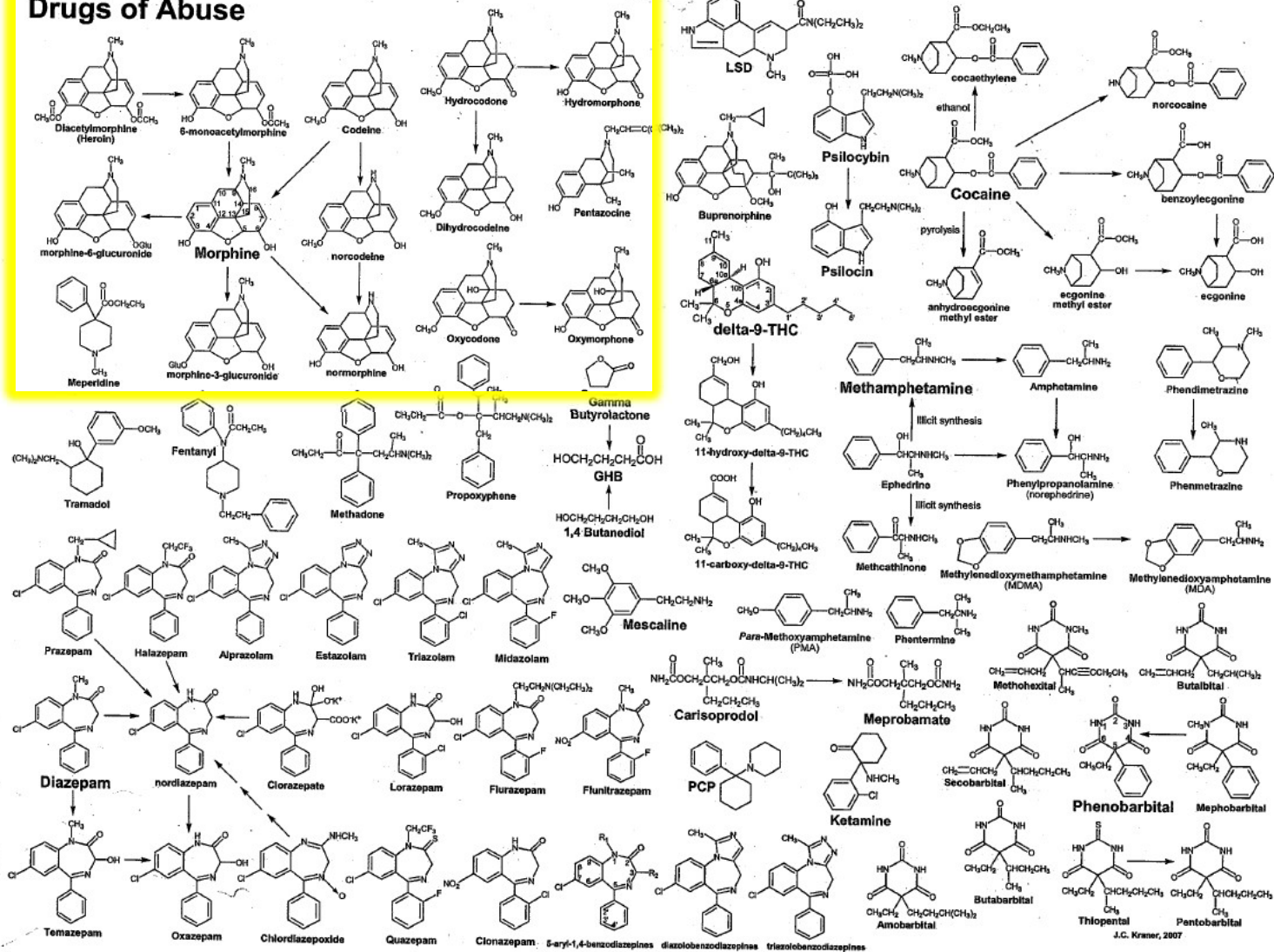
Drugs of Abuse



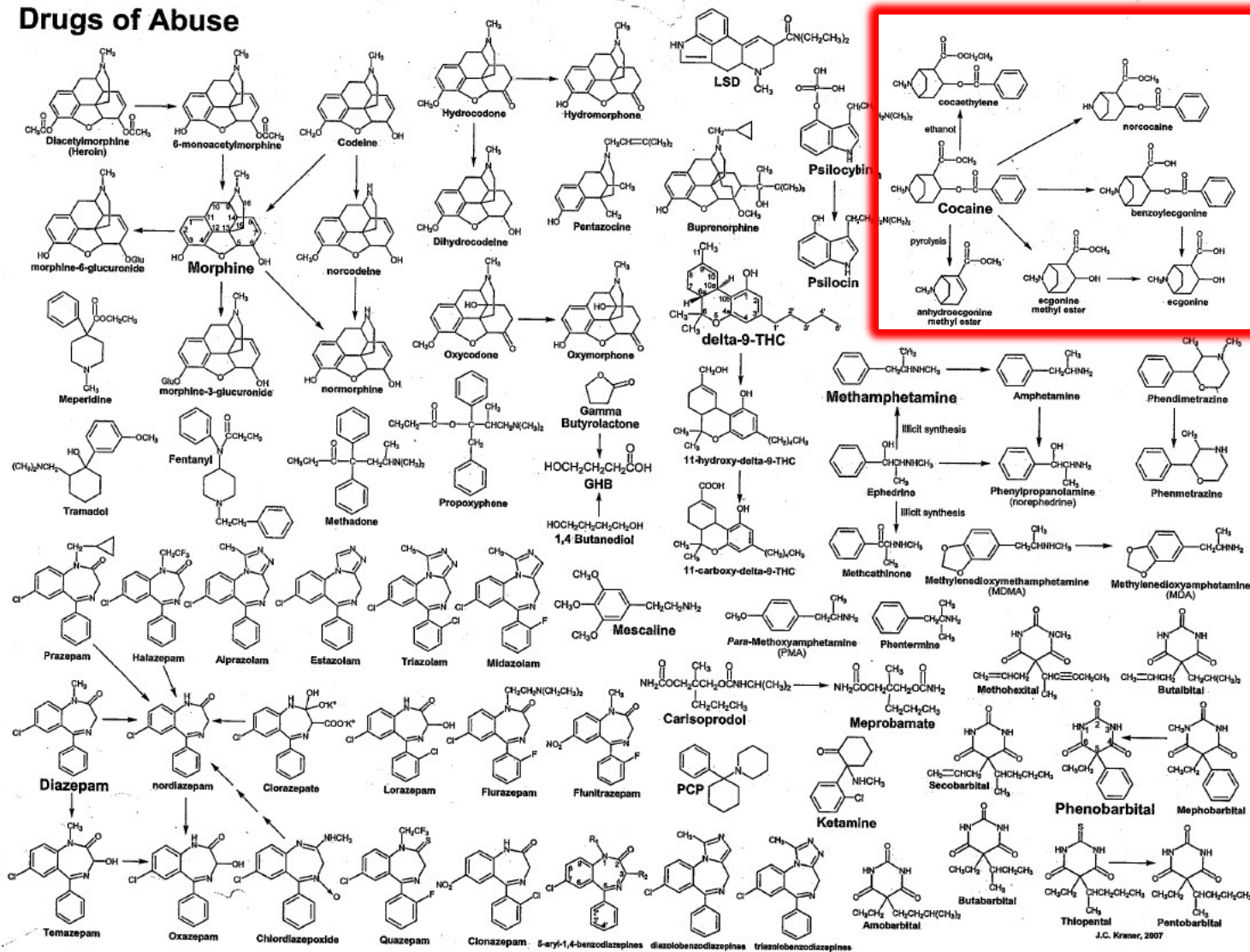
Drugs of Abuse

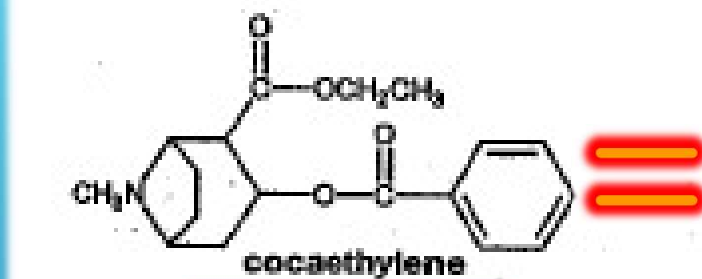


Drugs of Abuse

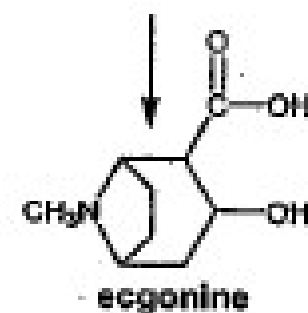
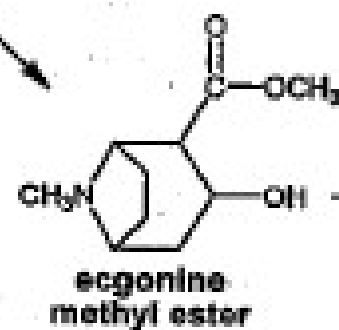
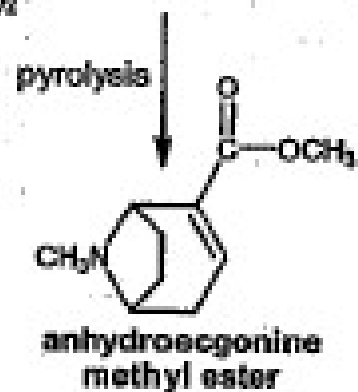
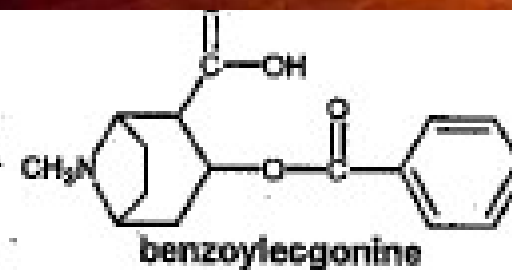
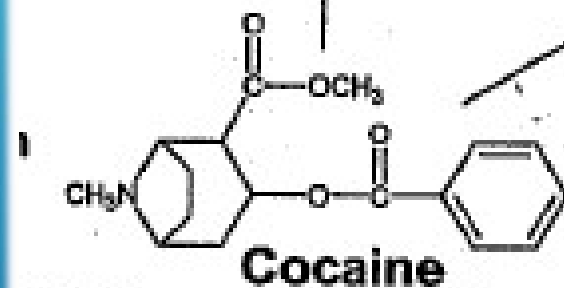


Drugs of Abuse





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The diagram illustrates the chemical pathways of various drugs, including their synthesis and metabolism. Key compounds and reactions shown include:

- Top Row:** LSD, Cocaine, and other stimulants.
- Morphine Pathway:** Morphine is converted to 6-monoacetylmorphine (Heroin) and other derivatives like Codeine, Dihydrocodeine, and Oxycodone.
- Amphetamines:** Methamphetamine is converted to Amphetamine, which is further metabolized to Phenylpropanolamine (nephedrine) and Phenmetrazine.
- Benzodiazepines:** A central section shows the synthesis of Clonazepam from 5-aryl-1,4-benzodiazepines, with other drugs like Diazepam, Temazepam, and Oxazepam also shown.
- Other Drugs:** Various other compounds like Propoxyphene, Meperidine, and Tramadol are shown with their respective chemical structures and names.

The diagram is a complex network of chemical structures and reaction arrows, providing a detailed overview of drug metabolism and synthesis.

J.C. Kraner, 2

URINE (A)(3) CASES – *HARRIS* Challenge

- ▶ **Claim** – Urine does not show what is active in the blood. *Harris* requires dismissal because urine does not demonstrate impairment at that time.
- ▶ Defense has raised in all types of (A)(3) urine cases.



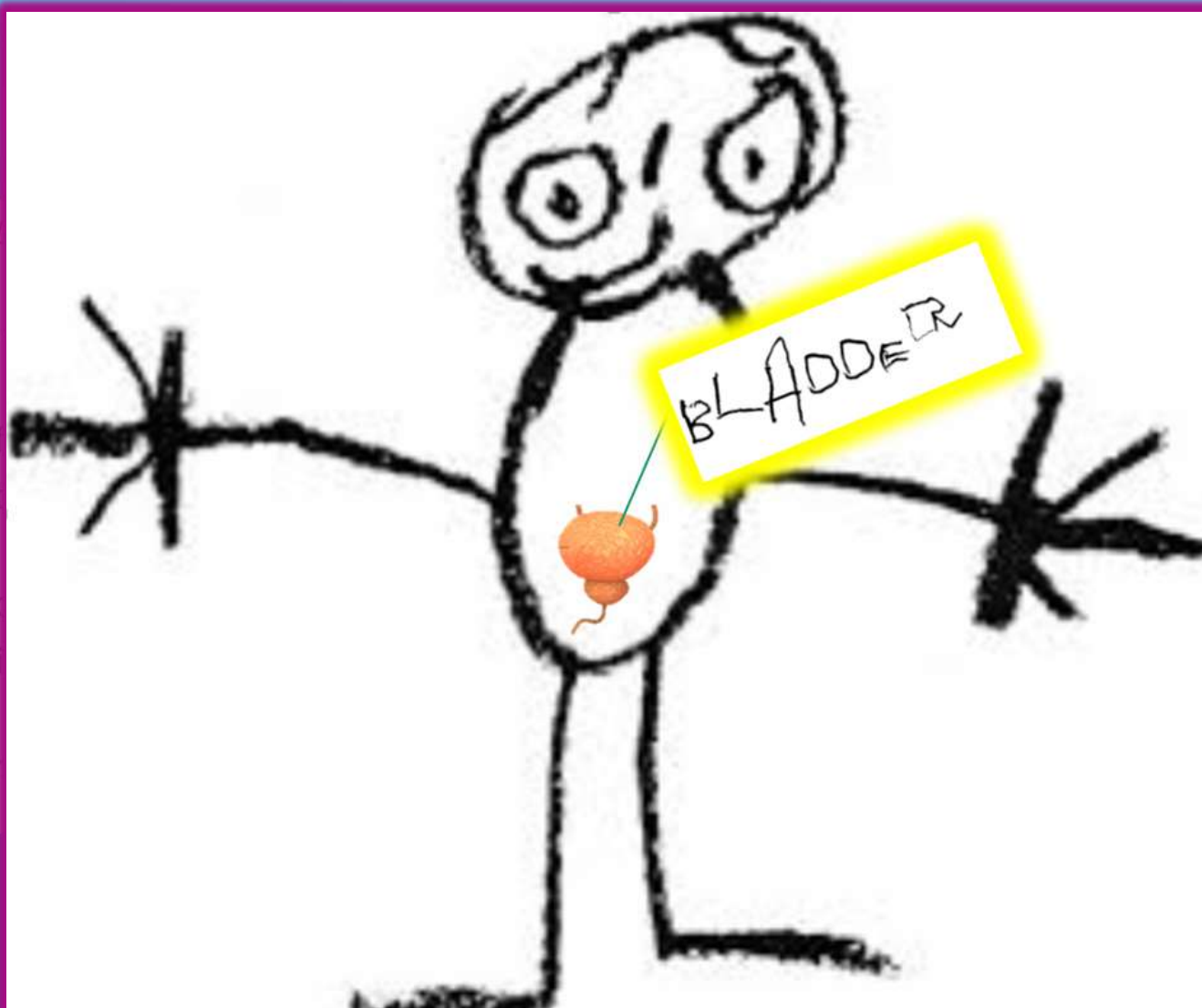
28-1381. Driving or actual physical control

A. It is unlawful for a person to

1. While under the influence of alcohol or any drug, whether or not the person is impaired to the slightest degree;

2. If the person has an alcohol concentration of 0.08 or more, whether or not the person is impaired to the slightest degree;

3. While there is any drug defined in RCW 3A.60.020, whether or not the person is impaired to the slightest degree;



any vapor releasing substances if the

concentration results from alcohol

URINE (A)(3) CASES - *HARRIS*

- ▶ Make sure tox results contain a parent drug defined in ARS § 13-3401 or its active metabolite.
- ▶ If only have metabolite(s) needs to be capable of impairment (or you need to pursue the *McFadden* fn 8 process.)
- ▶ **Reminder** – urine is better for some drugs.

URINE (A)(3) CASES - HARRIS

- ▶ *Harris*: “We find that the legislature intended to prohibit driving with any amount of an impairing substance resulting from a drug proscribed in § 13–3401 **in the body**.”
- ▶ *Harris* does not say or imply that “in the body” means “in the blood”.
- ▶ One's bladder is still in the body.
- ▶ We have a drug defined in 13-3401 and/or an active metabolite in the body.
- ▶ Whether or not that drug/active metabolite is acting to impair the body is a question for the A(1) charge, not the A(3).

URINE (A)(3) CASES - *HARRIS*

- ▶ Defense argument misconstrues *Harris* use of “non-impairing metabolite”.
- ▶ The court is discussing metabolites that are incapable of impairment.
- ▶ Defense attempts to broaden term to include metabolites that are active but aren't in the blood & are incapable of impairing due to **their location** rather than **their nature**.

URINE (A)(3) CASES

28-1381. Driving or actual physical control while under the influence; trial by jury; presumptions; admissible evidence; sentencing; classification

- A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state under any of the following circumstances:

* * *

3. While there is any drug defined in section 13-3401 or its metabolite in the person's body.

URINE (A)(3) CASES

STATUTORY INTERPRETATION REMINDERS

- ▶ When interpreting enactments, courts are not to supply meaning that is not found in the specific provision. *Kiley v. Jennings, Strouss and Salmon*, 187 Ariz. 136 (App. 1996).
- ▶ Absent constitutional infirmities, courts "are required to apply statutes as written." *City of Flagstaff v. Mangum*, 164 Ariz. 395, 401, (1991).
- ▶ The judiciary should not add to a provision that which the enacting body deemed unnecessary. *Werner v. Prins*, 168 Ariz. 271 (App. 1990).

URINE (A)(3) CASES - *HARRIS*

- ▶ *State v. Phillips*, 178 Ariz. 368 (App. 1994).
 - ▶ *State v. Hammonds*, 192 Ariz. 528 (App. 1998).
- 
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URINE (A)(3) CASES - *HARRIS*

Evidence of impairment helps – even with the (A)(3) charge.



Crime lab reporting changes



Carboxy



~~Carboxy~~

RECENT MVD CHANGES

A case study in the law the unintended consequences



After August 9, 2017?



Suspension

- ▶ Do your time...now there is no crime!

Motor Vehicle Division
ADOT
26181101011
www.adot.gov

Mail Drop 534M
Motor Vehicle Division
PO Box 2100
Phoenix AZ 85001-2100

CORRECTIVE ACTION

This document is a certified duplicate of the information contained in the computer storage device of the Arizona Department of Transportation, Motor Vehicle Division, in accordance with Arizona Revised Statutes 28-444.

JORDAN TAYLOR DRURY
8336 E PAMPA CIR
MESA AZ 85212-1784

Notice Date
08/09/2015
License Number
D02290246
Date of Birth
12/07/1986
Action Type
SUSPENSION

The following action has been ordered against your driving and/or vehicle registration privileges. This action is in addition to other actions, if any, taken against your record, and will remain in effect until all statutory requirements are met or the cause for the action is removed. If eligible for a hearing on this action, that hearing will be limited to this action only, and will have no effect on any other action which may be taken against your record.

After able to
an M
If you
251-5
Visit
Date A:
08/24/
Date A:
11/22/
Date E:
We have
that the
are still
the legal
minimum
drug s
For m
pamc

Date Action Begins	Statutory Authority
08/24/2015	28-1365
Date Action Ends	Case Number
11/22/2015	SQA01632*08/17/2015*
Date Eligible To End Action	Complaint Number
	00000000000000000A

We have received a report from law enforcement which indicates that the results of your blood alcohol concentration or drug tests are still pending or showed your alcohol concentration at or above the legal limit. Your driving privilege has been suspended for a minimum of 90 days. You are required to complete alcohol or other drug screening.

000152

Revocation/Cancellation

- ▶ Indefinite or “permanent”
- ▶ Requires application for reinstatement
- ▶ Medical documentation

SUSPENSIONS – malum prohibitum, malum in se



Arizona Chapter
National Safety Council
1606 W Indian School Rd
Phoenix AZ 85015
www.aznsc.org

TRAFFIC SURVIVAL SCHOOL SUSPENSION



Arizona Chapter National Safety Council is contracted to administer the ADOT/MVD Traffic Survival School Program, including printing and mailing this notice.

This document is a certified duplicate of the information contained in the computer storage devices of the Arizona Department of Transportation, Motor Vehicle Division, in accordance with Arizona Revised Statutes 28-444.

Notice Date
03/07/2017

Record Number
07359719

Action Type
SUSPENSION

JORDAN, TAYLOR, DRURY
28763 N SPUR DR
SAN TAN VALLEY AZ 85143-6159

You have failed to complete a required traffic survival school course, therefore your driving privilege has been:

- ☒ Suspended for six months or until you complete the required course, whichever comes first
- ☐ Suspended indefinitely or until you complete the required course

You have the right to request a hearing on this action. Your request must be made in writing and may be submitted online at www.azdot.gov; by mail to Mail Drop 507M, Executive Hearing Office, Arizona Department of Transportation, PO Box 2100, Phoenix, AZ 85001-2100; by fax to 602-241-1624 or by hand delivery to the Executive Hearing Office or any MVD office (addresses available at the phone numbers on the front of this notice or www.azdot.gov). Your written request must include your: first, middle and last name; date of birth; license number; mailing address; home, cell and business phones; e-mail address, the Case Number on this notice and the reason for your request. Upon receipt of your written request, a hearing may be scheduled and you will be notified by mail of the date, time and location.

- Points suspension
- Red light/stop sign running
- Aggressive driving
- Moving violations resulting in death/physical injury

SUSPENSIONS – malum prohibitum, malum in se

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08242016 28-925C LAMP REQUIRED FOR LICENSE PLATE
FTA - CIVIL VIOLATION 11022016
LOC: PINAL FINE: 173.00 CRT: 1140 LSP/ASP 25/000
DOCKET: TR00020160 PLT#: BDN8422 AZ GMC
08242016 28-2158C FAILURE TO CARRY VEHICLE REGISTRATION CARD
FTA - CIVIL VIOLATION 11022016
LOC: PINAL FINE: 173.00 CRT: 1140 LSP/ASP 25/000
DOCKET: TR00020160 PLT#: BDN8422 AZ GMC
08242016 28-927A STOP LAMPS REQUIRED
FTA - CIVIL VIOLATION 11022016
LOC: PINAL FINE: 100.00 CRT: 1140 LSP/ASP 25/000
DOCKET: TR00020160 PLT#: BDN8422 AZ GMC
11082016 CS ACTION LICENSE SUSPENDED - 00000000000012708A ELIG DTE: INDEF
NOTIFICATION STATUS: MAILED 11082016
11082016 CS ACTION LICENSE SUSPENDED - 00000000000012708B ELIG DTE: INDEF
NOTIFICATION STATUS: MAILED 11082016
11082016 CS ACTION LICENSE SUSPENDED - 00000000000012708C ELIG DTE: INDEF
NOTIFICATION STATUS: MAILED 11082016
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FTA/FTP

- Until court satisfied

Insurance

- Varies

Suspended plates

- Varies

Date Action Begins	Statutory Authority	Traffic Violation Date
11/08/2016	28-3308	08/24/2016
Date Action Ends	Case Number	Traffic Violation Code
INDEF	163111573*11/06/2016	28-925A
Date Eligible To End Action	Complaint Number	Court Name
	00000000000012708A	SUPERIOR MUNICIPAL COURT

We have received notice from the court indicating that you failed to appear on a traffic complaint. Your driving privilege has been suspended.

You are not entitled to a hearing. To resolve this action, please call or take this notice to:

SUPERIOR MUNICIPAL COURT
(520) 689-5091



DRIVER LICENSE / IDENTIFICATION CARD APPLICATION

Type: ☐ Driver License ☐ Motorcycle ☐ Instruction Permit ☐ Identification Card
You are required by A.R.S. §§ 28-3158(D)(5) and §§ 28-3165(F), under authority of 42 U.S.C. §§ 405(c)(2)(C) and § 689 (a)(1)(3)(A), to provide your Social Security Number. It will be used to verify your identity and to comply with federal and state child support enforcement laws. It will not be used as your driver license or identification card number.

Social Security Number		Applicant Name (first, middle, last, suffix)	
[REDACTED]		Igora Lynn Denekau	
Residence Street Address		City	State Zip
41920 W. Cotton Ln		Maricopa AZ	AZ 85130
Mailing Address (if different from above)		City	State Zip
<input type="checkbox"/> Street <input type="checkbox"/> Mailing Which address do you want to appear on your license?			
Sex	Weight	Height	Eyes Color
<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	120	5'6"	Bru
Hair	Date of Birth		
BLK	8/16/65		
Current Driver License Number		Name on Current Driver License or ID (if different from above)	
D08987253		AC	
Class		Issue Date	
<input type="checkbox"/> Operator <input type="checkbox"/> Motorcycle <input type="checkbox"/> Commercial (CDL) <input type="checkbox"/> Identification Card		8/11/14	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Has your driving privilege ever been suspended, disqualified, canceled, denied or revoked?			
If Yes: States <u>AZ</u> Dates <u>7/2014</u> Reasons <u>tickets</u>			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Is your driving privilege now suspended, disqualified, canceled, denied or revoked?			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Do you have a license from more than one state or jurisdiction?			
<input type="checkbox"/> My vehicle is registered in another state (indicate which state): <u>State</u> <input type="checkbox"/> I am active duty military or family member.			
<input type="checkbox"/> I want to show a medical alert condition on my license/ID (must submit physician or registered nurse practitioner statement).			
<input type="checkbox"/> I also want this alert maintained on my permanent computer record. (If not checked, when you reapply or request a duplicate, the alert will not appear on your license/ID unless you resubmit a physician or registered nurse practitioner statement.)			
<input type="checkbox"/> I consent to the release of personal information contained in my driver license and vehicle record. I understand that this is not a one-time consent that applies only to a specific individual or organization, but is instead a general consent that applies to all requests from any and all individuals or organizations for any purpose, until revoked by me in writing. (Consent for a vehicle record applies to all owners.)			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Do you have a physical, psychological or visual condition (other than wearing glasses or contact lenses), or alcohol/drug dependency or are you taking any medications that could affect your ability to safely operate a motor vehicle? (driver license applicants only)			
Please Explain			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Have you ever been determined to be incapacitated by a court? (driver license applicants only)			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are you a United States citizen who wishes to register to vote or update your existing voter registration?			
Party Preference			
<input type="checkbox"/> I want to be placed on the permanent early voting list and receive an early ballot by mail for each election I am eligible.			
<input type="checkbox"/> DONOR* I check this box to become an organ/tissue donor and join the DonorLifeAZ Registry. *DONOR* will print on my license.			
<input type="checkbox"/> I am a U.S. Military veteran and would like the word "VETERAN" printed on my license/ID. (Documentation Required)			

All Applicants: I certify under penalty of perjury that the information above is true and correct. I understand that I must report a change of address or name to MVD within 10 days. All Driver Applicants: I understand the laws, rules and regulations described in the Arizona Driver License Manual, and that I must report to MVD in writing, within 10 days, any medical condition that develops or worsens that may affect my ability to safely operate a motor vehicle.

Male Applicants Under 26: By submitting this application, I consent to registration with the Selective Service System if I am required to register under federal law. If I am under 18, I understand that I will be registered as required by federal law when I become 18.

Voter Registration: I certify that I am not a convicted felon or my civil rights have been restored, and that I have not been adjudicated incompetent. I certify that I am a United States citizen. Submitting a false voter registration is a Class 6 felony. Your decision to register to vote or not, and where you submitted your application, will remain confidential.



Applicant Signature (If under 18, Legal Guardian Certificate on the back must be completed.)	
[Signature]	
Notary or MVD Agent Signature	
[Signature]	
Acknowledged before me this date.	
Date	County
8/16	Pinal
Commission Expires	
[Signature]	

This document is a certified duplicate of the information contained in the computer storage devices of the Department of Transportation, Motor Vehicle Division, in accordance with Arizona Revised Statutes section 28-404.

000038



DRIVER LICENSE / IDENTIFICATION CARD APPLICATION

What are you applying for?

Driver License (DL) ☐ Travel ☐ Standard (Non Travel) ☐ Permit ☐ Motorcycle ☐ Limited (Active duty military, student or family member)
Identification Card (ID) ☐ Travel ☐ Standard (Non Travel)

Have you ever had a DL/ID issued in Arizona? <input type="checkbox"/> Yes <input type="checkbox"/> No		Contact Number	
[REDACTED]		[REDACTED]	
Social Security Number		Applicant Name (First, Middle, Last)	
[REDACTED]		[REDACTED]	
Residence Street Address		City	State Zip
[REDACTED]		[REDACTED]	[REDACTED]
Mailing Address (if different from above) <input type="checkbox"/> Appear on license		City	State Zip
[REDACTED]		[REDACTED]	[REDACTED]
Sex	Weight (lbs)	Height (FT/in)	Eyes Color
<input type="checkbox"/> Female <input checked="" type="checkbox"/> Male			
Hair	Date of Birth (Month/Day/Year)		

- Do you wish to register to vote or update your existing voter registration AND are you a U.S. citizen? ☐ Yes ☐ No
☐ I want to be placed on the permanent early voting list and receive an early ballot by mail for each election I am eligible.
Party Preference
☐ Republican
☐ Democratic
☐ Other
- ☒ DONOR* I check this box to become an organ/tissue donor and join the DonorLifeAZ Registry. *DONOR* will print on my license.
- ☐ I am a U.S. Military veteran who was enlisted, drafted, inducted or commissioned to serve in the active military, naval, or air service and I was not dishonorably discharged. I would like the word "VETERAN" printed on my license/ID. (Proof Required)
- ☐ I have a medical condition that I want displayed on my license/ID. (Proof Required)
- Do you have a physical, psychological or visual condition (other than wearing corrective lenses), or alcohol/drug dependency or are you currently taking any medications that could affect your ability to safely operate a motor vehicle? ☐ YES
Please Explain
- Have you ever been determined to be incapacitated by a court? ☐ YES
- Do you consent to the release of personal information contained in your driver license and vehicle record? I understand that this is not a one-time consent that applies only to a specific individual or organization, but is instead a general consent that applies to all requests from any and all individuals or organizations for any purpose, until revoked by me in writing. (Consent for a vehicle record applies to all owners) ☐ YES

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Applicant Signature		Notary Stamp	
[Signature]		[REDACTED]	
Acknowledged before me this date.		Notary or MVD Agent Signature & RACF	
[REDACTED]		[Signature]	
Date	County	State	Commission Expires

MVD USE -
Passed Vision Exam - YES ☐ or Passed Daylight Restriction Vision Exam - YES ☐ - Corrective Lens ☐ - MVD Agent RACF _____



28-1383. Aggravated driving or actual physical control while under the influence; violation; classification; definitions

A. A person is guilty of aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs if the person does any of the following:

1. Commits a violation of section 28-1381, section 28-1382 or this section while the person's driver license or privilege to drive is suspended, canceled, revoked or refused or while a restriction is placed on the person's driver license or privilege to drive as a result of violating section 28-1381 or 28-1382 or under section 28-1385.

2. Within a period of eighty-four months commits a third or subsequent violation of section 28-1381, section 28-1382 or this section or is convicted of a violation of section 28-1381, section 28-1382 or this section and has previously been convicted of any combination of convictions of section 28-1381, section 28-1382 or this section or acts in another jurisdiction that if committed in this state would be a violation of section 28-1381, section 28-1382 or this section.

3. While a person under fifteen years of age is in the vehicle, commits a violation of either:

(a) Section 28-1381.

(b) Section 28-1382.

4. While the person is ordered by the court or required pursuant to section 28-3319 by the department to equip any motor vehicle the person operates with a certified ignition interlock device, commits a violation of section 28-1381, section 28-1382 or this section.

5. COMMITS A VIOLATION OF SECTION 28-1381, SECTION 28-1382 OR THIS SECTION WHILE DRIVING THE WRONG WAY ON A HIGHWAY.

D. A person is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than four months in prison if the person is convicted under ~~either~~ **ANY** of the following:

1. Subsection A, paragraph 1 of this section.

2. Subsection A, paragraph 2 of this section and within an eighty-four month period has been convicted of two prior violations of section 28-1381, section 28-1382 or this section, or any combination of those sections, or acts in another jurisdiction that if committed in this state would be a violation of section 28-1381, section 28-1382 or this section.

3. SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

1. "Suspension, cancellation, revocation or refusal" means any suspension, cancellation, revocation or refusal.

2. "WRONG WAY" MEANS VEHICULAR MOVEMENT THAT IS IN A DIRECTION OPPOSING THE LEGAL FLOW OF TRAFFIC. WRONG WAY DOES NOT INCLUDE MEDIAN CROSSING OR A COLLISION WHERE A MOTOR VEHICLE COMES TO A STOP FACING THE WRONG WAY.

TRIVIA

Start

Q. A “highway” is defined as....

A. the path of a highly stoned individual.

B. an antonym of low-way

C. Any road or portion thereof that is open to the public

D. an alternate to the election of “my way”

28-101. Definitions



57. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

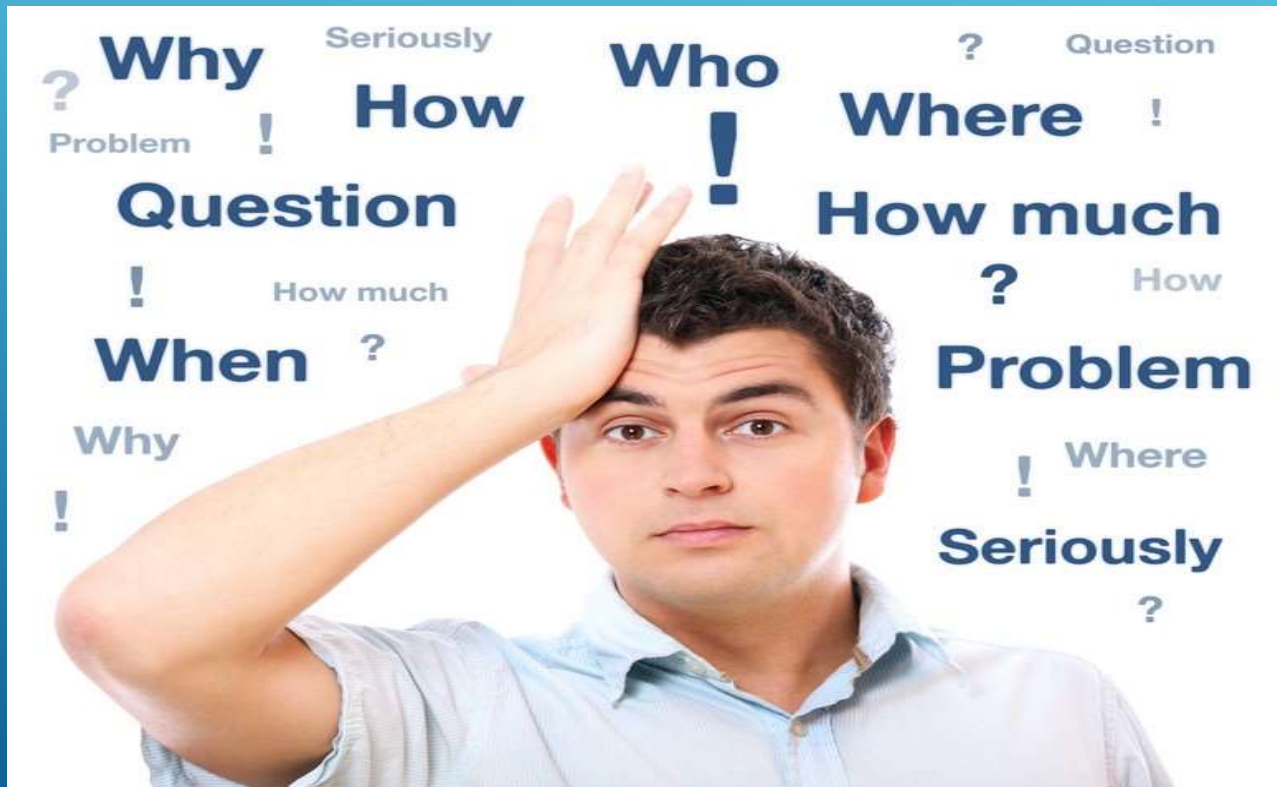
28-601. Definitions

2. "Controlled access highway" means a highway, street or roadway to or from which owners or occupants of abutting lands and other persons have no legal right of access except at such points only and in the manner determined by the public authority that has jurisdiction over the highway, street or roadway.

NEW RULE 15.1 (b) (4)

- ▶ (4) for each expert who has examined a defendant or any evidence in the case, or who the State intends to call at trial:
 - ▶ (A) the expert's name, address, and qualifications;
 - ▶ (B) any report prepared by the expert and the results of any completed physical examination, scientific test, experiment, or comparison conducted by the expert; and
 - ▶ **(C) if the expert will testify at trial without preparing a written report, a summary of the general subject matter and opinions on which the expert is expected to testify;**

When Will Rule 15.1(b)(4) Apply?



NEW RULE 15.1 (b) (4)- DISCLOSE POTENTIAL EXPERTS


- ▶ 1. The State may call the following additional witnesses:
 - ▶ Ronald Skwartz
 - ▶ Erin Boone
 - ▶ Robert Stevenson
 - ▶ Herlinda Graham
 - ▶ David Flores
 - ▶ Sarah Cione
 - ▶ Sheila Azutillo

NEW RULE 15.1 (b) (4)- PROVIDE THE SUMMARY

- ▶ The effects of alcohol on the human body including consumption, absorption, distribution, metabolism and elimination
- ▶ Signs and symptoms of alcohol impairment, including progression of impairment
- ▶ Field sobriety tests and divided attention as cues of impairment
- ▶ Operation and theory of the Intoxilyzer 8000
- ▶ Function, quality assurance and reliability of the Intoxilyzer 8000 & test results
- ▶ Ethanol absorption by human tissue and ethanol evaporation time
- ▶ Periodic maintenance for the Intoxilyzer 8000
- ▶ DPS regulations as related to breath alcohol measuring instruments
- ▶ Consensus in scientific community regarding impairment for persons with a blood/breath alcohol content of .08 or above
- ▶ Drink calculations

NEW RULE 15.1 (b)- ADDRESS REBUTTAL

This list does not include rebuttal evidence because the extent of rebuttal evidence needed cannot be determined prior to the defense presentation of evidence and cross-examination of witnesses.

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NEW RULE 15.1 (b)- PROVIDE A DISCLAIMER

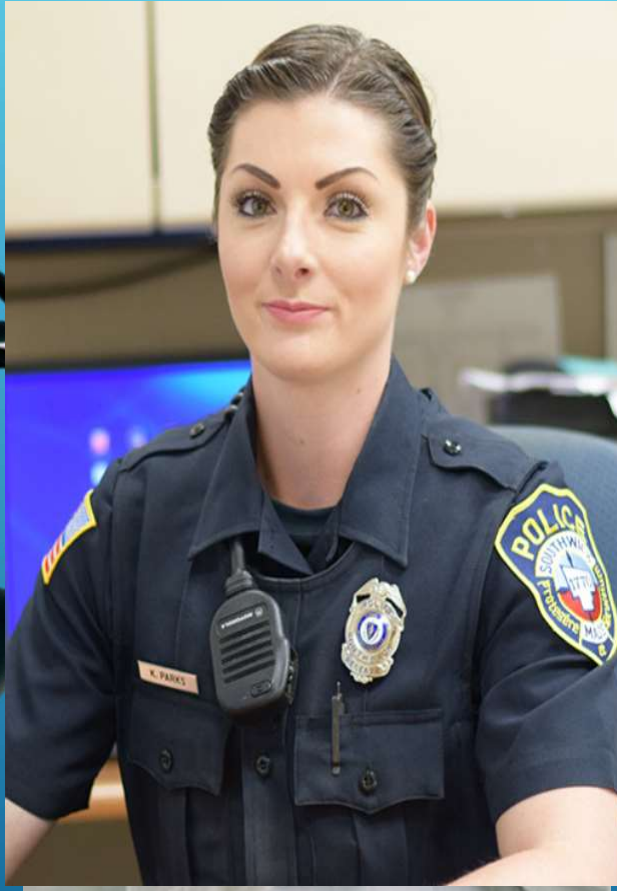
- ▶ In providing the above information, the State believes it has complied with the requirements of Criminal Procedure Rule 15.1 (b) (4) (C). If defense counsel believes this notice is insufficient, the State requests counsel to notify the State so the matter may be resolved as required by Criminal Procedure Rule 15.7(a).
- ▶ Additional clarification, if needed, may be also be obtained through an interview of the expert. Any request for an interview should be made in writing and at least ten days prior to trial.



NEW INTOXILYZER 9000

USING YOUR DRE

Several thin, parallel white lines are drawn diagonally across the right side of the slide, starting from the top right and extending towards the bottom left.



DRUG RECOGNITION EVALUATION

- ▶ Breath Test
- ▶ Interview of arresting officer
- ▶ Preliminary Examination (1st pulse +)
- ▶ Examination of Eyes
- ▶ Divided attention tests (FSTs +)
- ▶ Vital signs
- ▶ Dark room examination
- ▶ Muscle tone examination
- ▶ Injection site examination
- ▶ Suspect's statements
- ▶ Opinion of the evaluator
- ▶ Toxicology results

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STANDARDIZED AND SYSTEMATIC



DRUG RECOGNITION EVALUATION

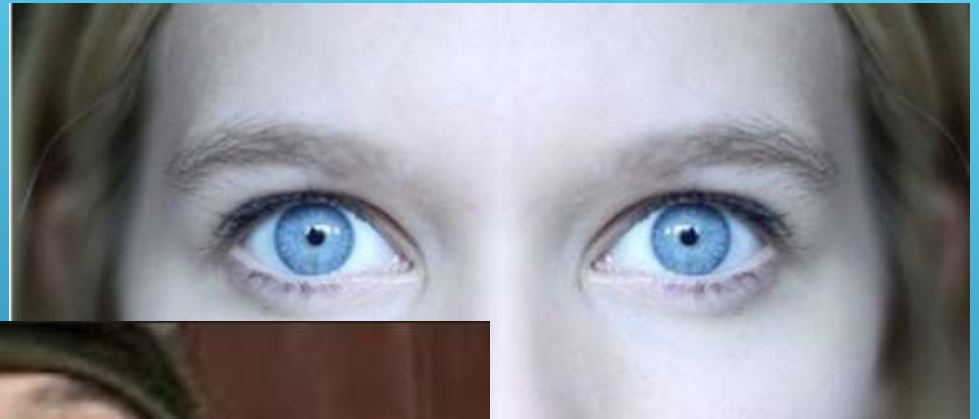
- ▶ **Breath Test**
- ▶ **Interview of arresting officer**
- ▶ **Preliminary Examination (1st pulse +)**
- ▶ **Examination of Eyes**
- ▶ **Divided attention tests (FSTs +)**
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Eyes are the window to the soul



This person has dilated pupils
Normal pupil size is 3.0 mm to 6.5 mm



Miosis
Mydriasis
Bruxism

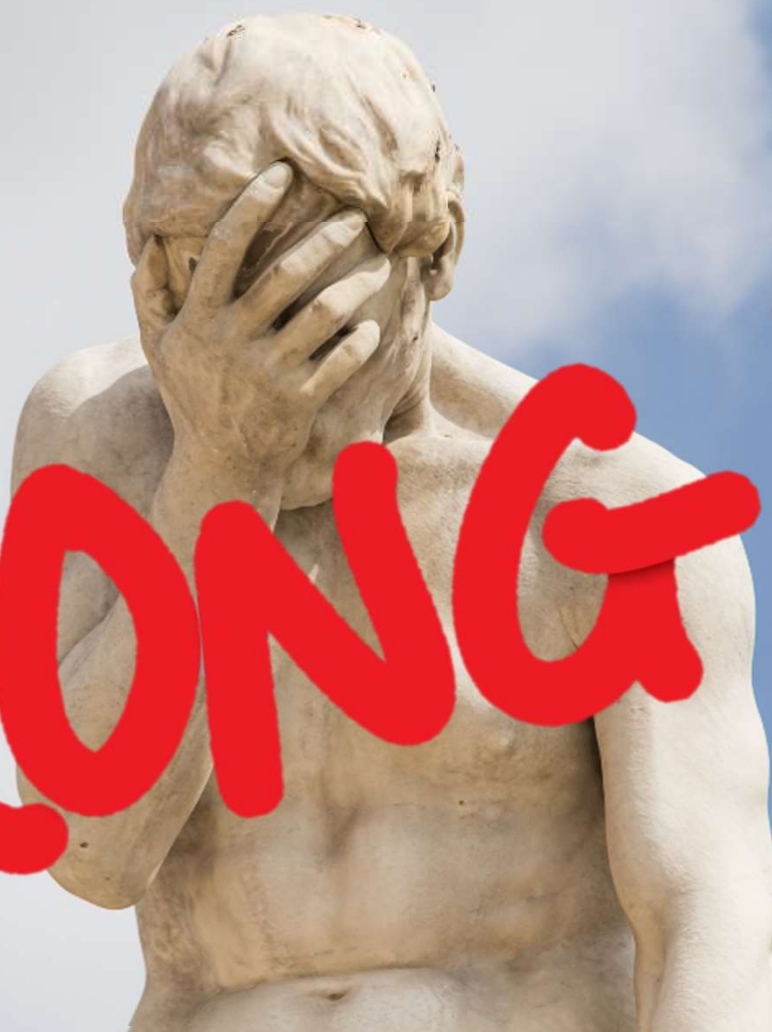
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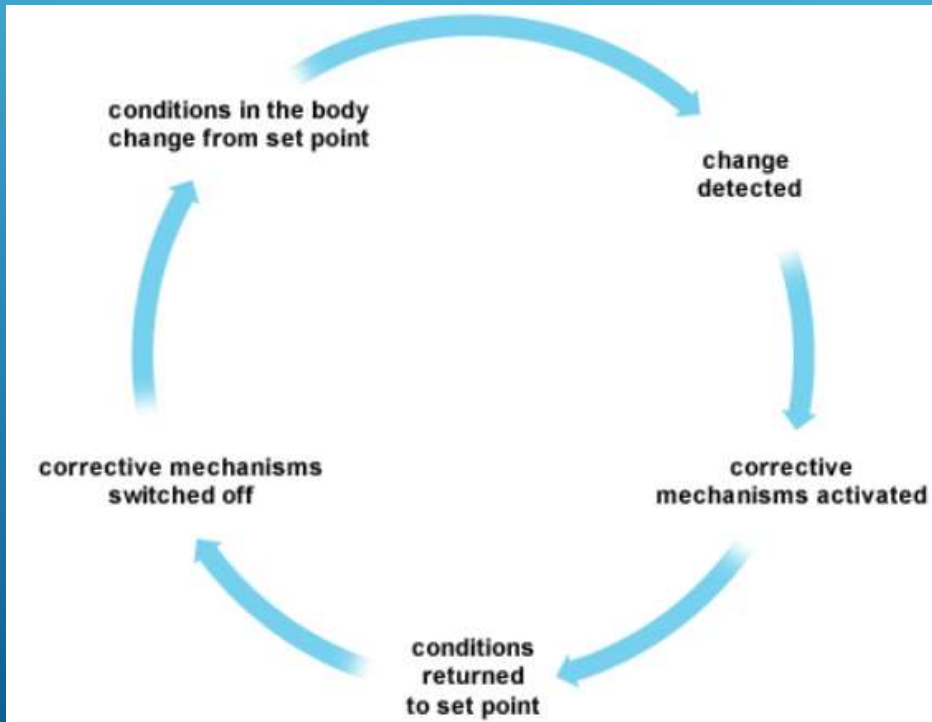
STANDARDIZED AND SYSTEMATIC

WRONG!





Homeostasis



Homeostasis is the tendency to resist change in order to maintain a stable, relatively constant internal environment.

INDICATORS CONSISTANT WITH DRUG CATEGORIES							
MAJOR INDICATORS	CNS DE-PRESSANTS	CNS STIM-ULANTS	HALLUC-INOGENS	DISSOC. ANESTH.	NARCO-TICS	INHALANTS	CANNABIS
HORIZ. GAZE NYSTAGMUS	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	NONE
VERTICAL NYSTAGMUS	PRESENT (HIGH DOSE)*	NONE	NONE	PRESENT	NONE	PRESENT (HIGH DOSE)*	NONE
LACK OF CONVERGENCE	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	PRESENT
PUPIL SIZE	NORMAL (1)	DILATED	DILATED	NORMAL	CONSTRICTED	NORMAL (4)	DILATED (6)
REACTION TO LIGHT	SLOW	SLOW	NORMAL (3)	NORMAL	LITTLE OR NONE VISIBLE	SLOW	NORMAL
PULSE RATE	DOWN (2)	UP	UP	UP	DOWN	UP	UP
BLOOD PRESSURE	DOWN	UP	UP	UP	DOWN	UP/DOWN (5)	UP
BODY TEMPERATURE	NORMAL	UP	UP	UP	DOWN	UP/DOWN/NORMAL	NORMAL

*High dose for that particular individual

1.0 1.5 2.0 2.5 3.0 3.5 4.0 4.5 5.0 5.5 6.0 6.5 7.0 7.5 8.0 8.5 9.0

Vitals in relation to DRE average

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OPINION OF THE EVALUATOR

Rule 704. Opinion on an Ultimate Issue

Currentness

(a) **In General--Not Automatically Objectionable.** An opinion is not objectionable just because it embraces an ultimate issue.

(b) **Exception.** In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Thank You!

Adam Garvin
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Pinal County Attorney
Adam.Garvin@pinalcountyz.gov



Governor Doug Ducey